

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOHN T. POWERS, JR.,

Civil Case No.: 15-cv-5116
(LDW) (ARL)

Plaintiff,

- against -

PROPOSED JOINT
PRETRIAL ORDER

COUNTY OF SUFFOLK, SUFFOLK COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY, SUFFOLK POLICE DEPARTMENT, SUFFOLK COUNTY POLICE OFFICER "JOHN" WEISS, said first name being a fictitious name, the true name being unknown to the Plaintiff, being and intended to be an unknown Suffolk County Police Officer, SUFFOLK COUNTY SHERIFF'S DEPARTMENT, "JOHN DOE #1", said name being a fictitious name, the true name being unknown to the Plaintiff, being and intending to be an unknown Deputy Sheriff of the Suffolk County Sheriff's Department, "JOHN DOE #2", said name being a fictitious name, the true name being unknown to the Plaintiff, being and intended to be unknown Security Guard for the Suffolk County Parking and Violations Agency and LOU RE,

Defendants.

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A final pretrial conference was on held on the 14th day of July 2016. As ordered by the Honorable Magistrate Arlene R. Lindsay on that date the parties submit the following pursuant to Federal Rule of Civil Procedure 16(e) and the Individual Practice Rules of the Honorable Judge Leonard D. Wexler:

1. **FULL CAPTION**

The full caption of the case is as set forth above. On August 5, 2016 the Plaintiff submitted an application pursuant to Rule 2(B) of the Individual Practice Rules of the Honorable Judge Leonard D. Wexler for a Pre-motion Conference which application seeks in part to amend the Plaintiff's Complaint to correctly identify the Defendant, Suffolk County Police Officer "John" Weiss, as Anthony Weiss. Pursuant to the aforementioned application, a Pre-motion Conference is scheduled before the Honorable Judge Leonard D. Wexler on September 14, 2016.

2. **TRIAL COUNSEL**

For Plaintiff:

Harold A. Steuerwald, Esq.
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Attorney for Defendants: *County of Suffolk, Suffolk County Traffic and Parking Violations Agency, Suffolk County Police Department, Suffolk County Police Officer Weiss s/h/a "John" Weiss, Suffolk Sheriff's Office s/h/a s/h/a Suffolk County Sheriff's Department and Lou Re:*

Arlene S. Zwilling, Assistant County Attorney
Dennis M. Brown
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3. **JURY TRIAL: LENGTH OF TRIAL**

Plaintiff requests the case to be tried with a jury. The parties estimate that the trial will last 5 days.

4. **WITNESSES**

Plaintiff's Witnesses

The Plaintiff will call the following fact witnesses to prove his case in chief:

1.	John T. Powers, Jr.	Plaintiff	In person
2.	Kevin P. Cadden, Esq.	Witness	In person
3.	Ernie Bongiovanni, Esq.	Witness	In person
4.	Ira Rosenberg, Esq.	Witness	In person
5.	Adam J. Halpern, Esq.	Witness	In person
6.	James A. Evans	Witness	In person
7.	John Lynch, Esq.	Witness	In person

Plaintiff reserves the right not to call any of the witnesses. Plaintiff further reserves the right to call any of the witnesses listed by Defendants.

Defendants' Witnesses

In addition to those persons listed by Plaintiff as witnesses, whom defendants reserve the right to call as witnesses regardless of whether Plaintiff calls them, Defendants intend to call the following persons as trial witnesses:

1. Anthony Weiss
2. Louis Re
3. Michael Cafarella
4. William Cocks
5. Paul Margiotta
6. PSO Gaetan
7. Michael Lavella
8. Michael Rosen
9. PO Kennedy

5. DEPOSITION TESTIMONY

The parties reserve the right to rely on the deposition of witnesses to the full extent permitted by Fed. R. Civ. P. 32(a) and to rely on the deposition of any witness who is unavailable for trial to the full extent permitted by Fed. R. Civ. P. 32.

6. EXHIBITS

Plaintiff's Exhibits

Plaintiff presents the following Exhibits:

1. June 6, 2014 video of incident at issue from Suffolk County Traffic and Parking Violations Agency.
2. June 6, 2014 video from Suffolk County Traffic and Parking Violations Agency of holding cell. (Plaintiff is presently awaiting receipt of a copy of said video from Defendants' counsel).

3. Public Safety Incident Report of June 6, 2014 (2 pages).
4. Sign in sheet for Suffolk County Traffic and Parking Violations Agency for June 6, 2014.
5. Supplementary Report of June 6, 2014 incident by Suffolk County Police Officer Anthony Weiss.
6. Report by Suffolk County Deputy Sheriff James A. Evans for June 6, 2014 incident.
7. Suffolk County Police Department Rules and Procedures regarding probable cause to arrest that were in effect on June 6, 2014.
8. A copy of the Rules and Procedure Handbook for the Suffolk County Traffic and Parking Violations Agency that was in effect on June 6, 2014 and all subsequent amendments. (Plaintiff is presently awaiting receipt of a copy of said document from Defendants' counsel).
9. Personnel file of Defendant, Lou Re. (Plaintiff is presently awaiting receipt of a copy of said document from Defendants' counsel).
10. Personnel file for Defendant, Suffolk County Police Officer Anthony Weiss s/h/a "John" Weiss. (Plaintiff is presently awaiting receipt of a copy of said document from Defendants' counsel).
11. Cell phone records of John T. Powers, Jr. for June 6, 2014.

Defendants' Exhibits

In addition to those documents and things listed by Plaintiff as exhibits, which defendants reserve the right to move into evidence if not offered by Plaintiff, Defendants intend to offer the following documents and things into evidence, in whole or in part:

1. Plaintiff's Notice of Claim.
2. Suffolk County Police Department Internal Affairs Bureau Report.
3. Plaintiff's Response to Defendants' Interrogatories.
4. Transcript of plaintiff's hearing pursuant to N.Y. General Municipal Law §50-h.
5. File of Matter of Powers v. Suffolk County Traffic and Agency Violations Agency, Supreme Court, County of Suffolk, Index No. 21847-2014.
6. File of Matter of Powers v. County of Suffolk and Suffolk County Traffic and Agency Violations Agency, Supreme Court, County of Suffolk, Index No. 16-268.
7. Still photographs of frames of June 6, 2014 video of incident from Suffolk County Traffic and Parking Violations Agency

8. File of People of the State of New York against Katherine Kartsonis, Suffolk County Traffic and Parking Violations, Case No. 1310000396.
9. Plaintiff's Proposed Amended Complaint.

Dated: Bellport, New York
September 6, 2016

/s/ Harold A. Steuerwald

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Dated: Hauppauge, New York
September 6, 2016

/s/ Arlene S. Zwilling

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Dated: Central Islip, New York
September __, 2016

SO ORDERED:

ARLENE ROSARIO LINDSAY
United States Magistrate Judge